

# Continuation of construction projects in insolvency

Contracts, guarantees and neighbor disputes

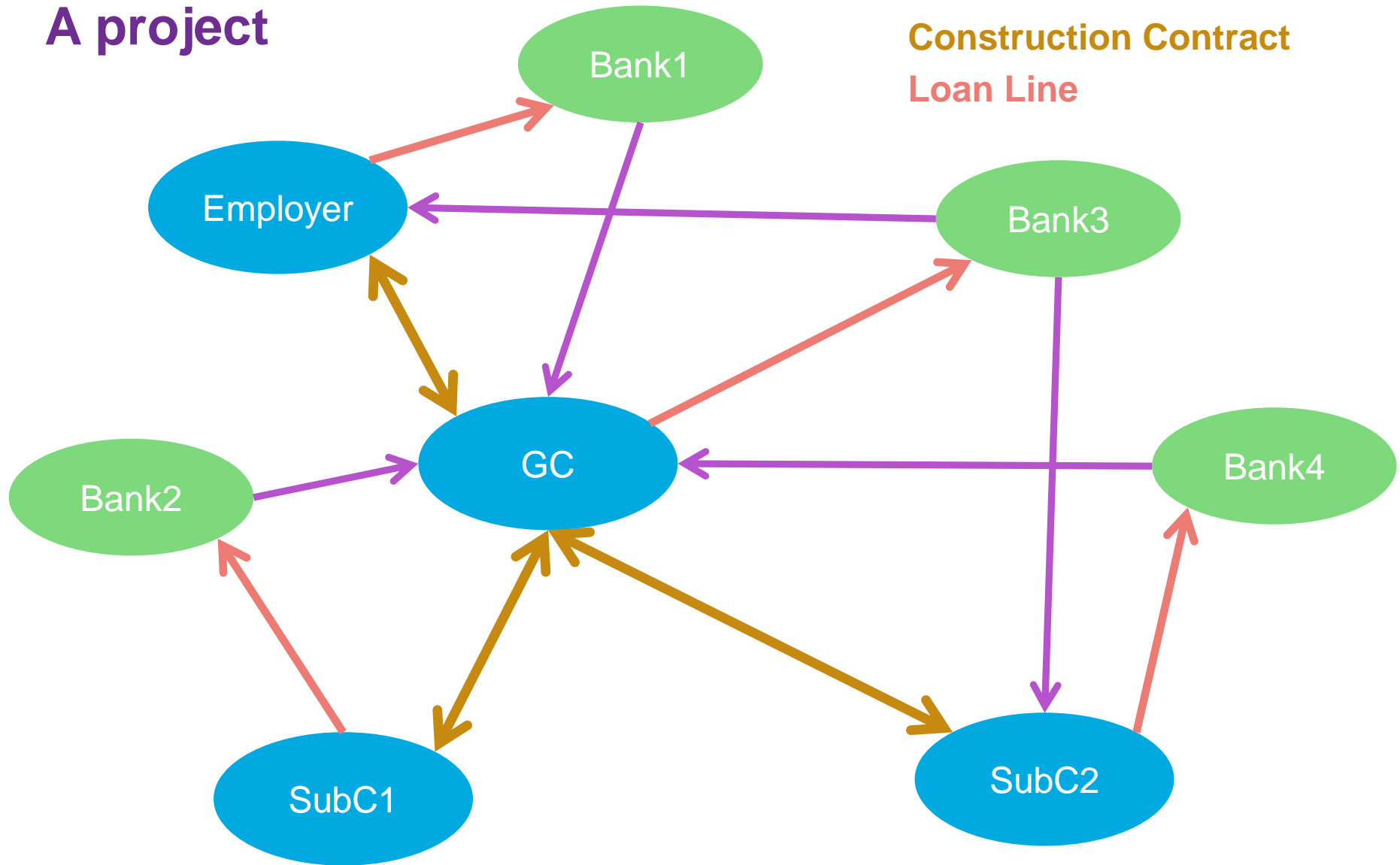
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Working Session: *Don't hit the wall: how to deal with (and prevent) default in real estate projects*

# A project

Bank Guarantee  
Construction Contract  
Loan Line



# Employer's distress (SPV)

## Completion v. sale

- Financing and valuation
- Construction contract claims

## Recovery

- Title and transaction risks
- Security interests
- Damage claims (future tenants, etc.)

## Development issues

- Title
- Access
- Permits
- Neighbors



# Contractor's distress I

## Cash flow

- Advance payment bonds
- Set-offs (assignments)
- Plan (per contract)

## Assets

- Unfinished works
  - Title (3<sup>rd</sup> parties, title retention)
  - Balance sheet
- Equipment on/off site
- Retention amounts



# Contractor's distress II



## Contracts

- MAC and similar clauses (restructuring talks)
- Novation (step-in) and servicing (damages at termination)
- Warranties (performance bonds)

## Liabilities

- Conditional bank guarantee subrogation claims (voting)
- Damages as priority claims (reorganization)

# Contact

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